

## REMARKS

Applicants respectfully request reconsideration of this application as amended. Claims 1-2, 10, 15, 17, 19, 21-22, 24 and 26 have been amended. Claims 12 and 13 have been cancelled without prejudice. Therefore, claims 1-11 and 14-26 now are presented for examination.

### 35 U.S.C. § 102(b) Rejection

Claims 1, 3-4, 6, 9-13, 15-21 and 23-26 stand rejected under 35 U.S.C. §102(b) as being anticipated by Fee et al., U.S. Patent No. 5,522,042 (“Fee”).

Applicants respectfully submit that Fee discloses that “[c]ertain applications need to be supported by [a] chassis, but can be executed on any module. *At . . . a module failure/removal an election process is required* to discover the best locations on which to run the chassis applications. The *decision on where to locate an application . . . is based on the following*: module’s available resources, *current applications*, current profile, module type[, and] slot number.” (col. 7, lines 48-61; emphasis provided).

In contrast, claim 1, in pertinent part, recites “electing a second server to replace the first server to act as the active manager server based on a predetermined criteria if the first server fails . . . receiving an indication that the first server has failed . . . [and] automatically replacing the first server with the second server as the active manager server.” (emphasis provided). First, Fee discloses that *upon failure*, the election process to decide where to relocate applications within the chassis begins (see col. 7, lines 50-52); however, claim 1 recites that the server to replace the active manager server is elected prior to a failure. Therefore, the transition in claim 1 is seamless, as opposed to Fee, because, as recited by claim 1, there is no need to wait for the election process upon

failure. Second, Fee discloses electing the location in the chassis based on current applications running on the module. (see col. 7, line 54-57). Therefore, the election process in Fee is application-dependent, whereas claim 1 has no such constraint. Accordingly, for at least the reasons stated above, Applicants respectfully request that the rejection of claim 1 and its dependent claims be withdrawn.

Claims 10, 17, 21 and 24 include limitations similar to those of claim 1. Thus, for the reasons stated above with respect to claim 1, Applicants respectfully request that the rejection of claims 10, 17, 21 and 24 and their dependent claims be withdrawn.

### **35 U.S.C. § 103(a) Rejections**

Claims 2 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fee.

With regard to claims 2 and 22, they depend from independent claims 1 and 24, respectively, and thus, include the limitations of the independent claim from which they depend. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 2 and 22.

Claims 5 and 7-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fee, and in view of Fung, U.S. Patent Application Publication 2002/0062454 (“Fung”).

With regard to claims 5 and 7-8, they depend from independent claim 1 and thus, include the limitations of claim 1. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 5 and 7-8.

### **Conclusion**

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

### **Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

### **Request for an Extension of Time**

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.


### **Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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Aslam A. Jaffery  
Reg. No. 51,841

12400 Wilshire Boulevard  
7<sup>th</sup> Floor  
Los Angeles, California 90025-1030  
(303) 740-1980